Mr. TOWNS. Mr. Speaker, I yield 5 minutes to the Honorable HENRY WAXMAN, the chairman of the full committee.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H.R. 5712, the Close the Contractor Fraud Loophole Act. This bill would create a mandatory requirement for Federal contractors to disclose violations of Federal criminal law or significant overcharges discovered with relationship to a Federal contract. It would replace our current system of voluntary disclosure.

Moving to mandatory disclosure has been recommended by the Justice Department for good reason, the voluntary disclosure system is simply not working. In fiscal year 2007, only three contractors participated in the Defense Department's voluntary disclosure program.

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Congressman WELCH introduced this bill after the administration exempted contracts performed in Iraq and Afghanistan from a proposal to make fraud reporting mandatory. This exemption made no sense. As this committee's oversight has shown, fraud and over-billing are widespread in Iraq.

The administration testified at a hearing before the Government Management Subcommittee that these exemptions were included inadvertently, and they said they made a mistake. This is a mistake that needs to be corrected, and that's why I commend Congressman WELCH for pressing this issue and introducing this legislation. If we pass this bill, the real winners will be the Federal taxpayers.

Prior to our committee markup on the bill, we worked with Ranking Member DAVIS to address certain concerns he raised with the way the bill was originally drafted. And I want to thank Mr. DAVIS for working with us in a constructive manner to ensure passage of this bill.

The bill before us, H.R. 5712, as amended, would preserve Representative WELCH's original intent while at the same time preserving the legitimate role of the regulatory process. The bill requires that the Federal Acquisition Regulation be amended within 180 days to require disclosure of fraud for both domestic and overseas contracts, and for commercial item contracts.

I urge Members to support H.R. 5712, as amended. It has been approved by a bipartisan vote in our committee, and it ought to be overwhelmingly approved in the House as well.

Mr. DAVIS of Virginia. I yield myself such time as I may consume.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Speaker, I had serious concerns about this legislation when it was originally introduced. The original version would have required a Federal contractor to self-report to the agency's IG if the contractor had reasonable grounds to suspect a violation of criminal law or if a significant overpayment occurred on a contract held by the contractor. A knowing failure to make such a report would have been a cause for debarment or a suspension for all firms, including those holding contracts performed overseas and contracts for commercial items.

This original version, in my judgment, was an ill-considered attempt to strengthen an ethics compliance program that's currently being developed by the administration.

The concept of mandatory self-reporting by contractors of possible criminal violations, based on reasonable grounds, would have been unprecedented and obviously controversial. The rule proposed in the Federal Register was the subject of more than 70 comments. As expected, many of the firms subject to the rule expressed serious legitimate concerns about the proposal.

In actuality, the bill as introduced didn't make as significant change as intended to the substance of the proposed revisions. The problem was the bill leapfrogged the statutorily designated process for writing acquisition regulations, and would have encased in statute draft language establishing a new reporting scheme yet to be thoroughly vetted.

The subcommittee received testimony that the so-called loophole which was alleged to have been snuck in at the 11th hour, was really an inadvertent administrative error made by an overworked acquisition policy staff.

None of the agencies providing testimony to the subcommittee, including the Department of Justice, nor the contractor community, supported this bill as it was introduced.

But I will say this to the author of the legislation and the subcommittee chairman, we ended up working together, and the language before us today was offered in his amendment at mark-up by Chairman WAXMAN and myself. This will ensure that the Federal acquisition regulation is revised to include a requirement that Federal contractors notify the government of violations of Federal, criminal law or overpayments in connection with the award or performance of contracts or subcontracts.

In doing so, it will ensure the regulation is applicable to all contracts, including those performed overseas and those for commercial items.

The stated purpose was ultimately accomplished by this language but accomplished through a more appropriate statutory acquisition rulemaking process.

Again, as with the other contractor bills we're considering today, I think that we would be better served if we would address some of the underlying problems in the acquisition system, and that is getting in good acquisition officials; whether they're contract managers, contracting officers, contracting officers technical representatives, trying to get more into government, educating them, training them and making sure they have the tools appropriate to get the best value for the tax dollars. That's where the real waste of government lies with having good acquisition officials.

I think this version of the bill today is an adequate solution. I want to thank again Chairman WAXMAN and Mr. WELCH for working with us to revise the language. I urge its adoption.

Mr. Speaker, today we rise to take up H.R. 5712, the Close the Contractor Fraud Loophole Act. This legislation would revise an administration-proposed contractor ethics and reporting program.

I had serious concerns about this legislation as it was originally introduced. The original version of the bill would have required a Federal contractor to self-report to the agency's Inspector General if the contractor had ''reasonable grounds'' to suspect a violation of criminal law or if a significant overpayment occurred on a contract held by the contractor. A knowing failure to make such a report would have been a cause for debarment or suspension for all firms, including those holding contracts performed overseas and contracts for commercial items.

This original version of the legislation was an ill-considered attempt to ''strengthen'' an ethics compliance program currently under development by the administration.

The concept of mandatory self-reporting by contractors of possible criminal violations based on ''reasonable grounds'' is unprecedented and controversial. The rule proposed in the Federal Register was the subject of more than 70 comments. As expected, many of the firms subject to the rule expressed serious and legitimate concerns about the proposal.

In actuality, the bill as introduced did not make as significant a change as intended to the substance of the proposed revisions to the acquisition regulations. The problem was the bill leapfrogged the statutorily designated process for writing acquisition regulations and would have encased in statute draft language establishing a new reporting scheme yet to be thoroughly vetted.

The Subcommittee on Government Management, Organization and Procurement received testimony that the so-called ''loophole''—which was alleged to have been ''snuck in at the eleventh hour''—was really an inadvertent administrative error made by an overworked acquisition policy workforce.

None of the agencies providing testimony to the Subcommittee, including the Department of Justice, nor the contractor community, supported H.R. 5712 as introduced. Instead, the stakeholders suggested the well-established regulatory drafting process should be allowed to continue to completion. They favored this rulemaking approach because it would allow all interested parties the opportunity to submit comments and have those comments considered in the deliberative process.

Nevertheless, the Committee moved forward with the legislation. Fortunately, Chairman WAXMAN, the bill's sponsor and I were able to work out language which addressed some of the concerns raised at the one hearing on the bill.